SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made and entered into as of October 22, 2015 by and between Plaintiffs Joseph Aglio *et al.* on behalf of themselves and all other similarly situated individuals who are members of the Aglio Master Class (as defined in Paragraph 3 of this Agreement) (such members of the Class are jointly, severally, and collectively referred to as the "Aglio Class"), on the one hand, and Defendant City of San Diego ("City") on the other hand.

RECITALS

WHEREAS, Plaintiffs Joseph Aglio *et al.* filed the action described as *Aglio et al. v. City of San Diego*, San Diego Superior Court, Case No. 37-2009-00081994-CU-EI-CTL (hereinafter the "*Aglio* Action"). The operative First Amended Complaint in the *Aglio* Action alleges causes of action for: (1) Action for Rescission; (2) Economic Duress;(3) Negligent Misrepresentation; (4) Fraud; (5) Unjust Enrichment; (6) Financial Abuse (Elder Abuse); (7) Violations of the Mobilehome Residency Law; (8) Violation of the Mello Act; (9) Failure to Discharge a Mandatory Duty; (10) Inverse Condemnation; (11) Violation of the California Relocation Assistance Law; (12) Violation of the California Constitution; and (13) Declaratory Relief;

WHEREAS, Plaintiffs alleged that the City had violated the legal rights of various current and former homeowners, residents, and occupants of the mobilehome park located in De Anza Cove (formerly known as De Anza Harbor Resort) at 2727 De Anza Road in San Diego, California 92109 (the "Park") under the Mobilehome Residency Law, other related laws and regulations, and other causes of action, resulting in current and future damages as more fully alleged in its First Amended Complaint. The City denies, and continue to deny, the allegations asserted against it in the *Aglio* Action;

WHEREAS, as to those Aglio Class members who signed the City's release agreements, the City alleges that those Aglio Class members did so with full knowledge of their potential claims and that the Aglio Class members signed voluntarily, not under duress, coercion, or due to fraud. The City asserts the Aglio Class members either knowingly elected not to seek the advice of their attorneys about the release agreement or ignored the advice not to sign the release agreement. Further, the City contends that the claims of the Aglio Class members are barred by their failure to comply with the requirements of the Government Claims Act, including the requirements to timely file valid claim forms and/or to timely file a lawsuit. Accordingly, should this proposed settlement not gain final approval, the City alleges that no further compensation is owed whatsoever because the claims herein are barred entirely by both the Government Claims Act as well as the applicable statutes of limitation, and are further barred because the release agreements were entered into voluntarily by the Aglio Class with knowledge of their rights, the pending *De Anza Cove* class action case, the Temporary Restraining Order granted on November 20, 2003, and the De Anza Cove Homeowners Association's legal representation. Should the City prevail against any Aglio-eligible individual, the City asserts that its release agreements contain an attorneys' fee provision which would entitle the City as the prevailing party to attorneys' fees, expert witness fees and all other costs of litigation. Plaintiffs deny, and continue to deny, the City's contentions;

WHEREAS, the *Aglio* Action was stayed by the San Diego Superior Court in order to allow the related and earlier-filed *De Anza Cove* class action case (San Diego Superior Court, Case No. GIC 821191) to complete its judicial process;

WHEREAS, the San Diego Superior Court, Hon. Joel M. Pressman presiding, issued an Amended Judgment in the *De Anza Cove* class action case on October 16, 2014;

WHEREAS, the City commissioned the preparation of a Relocation Impact Report ("RIR") related to the closure of the Park, but the RIR did not indicate what compensation and/or benefits, if any, *Aglio*-eligible class members might receive as part of the park closure process;

WHEREAS, the parties have entered into the settlement described herein after extended negotiations and the assistance of a mediator, and the foregoing parties desire to enter into this Agreement to resolve their disputes fully as to the Aglio Class, to confirm the legal rights of the Aglio Class, to clarify the size, calculation, and timing of payment of the relocation benefits owed by the City, to provide for certain payments in full settlement and discharge of all claims by the Aglio Class against the City, to bring certainty and finality, and to buy their peace and avoid further litigation and legal fees;

WHEREAS, each party to this Agreement has freely and voluntarily entered into such settlement;

Therefore, Plaintiffs, the Aglio Class, and City of San Diego agree as follows:

PROCEDURAL AGREEMENTS AND CLASS CERTIFICATION

1. The parties agree to convert the existing *Aglio* case into a class action for purposes of this settlement only and the class shall be decertified if the settlement is not finalized by the parties and/or not approved by the Court.

2. The parties shall jointly request the *Aglio* Court to lift the stay currently in place and, in order to streamline this case for the court due to the complexity of the issues and close relation to the related *De Anza Cove* class action case, the parties will stipulate and agree to promptly request the Presiding Judge to transfer the *Aglio* case to the Honorable Joel M. Pressman.

3. The City shall stipulate to allow Plaintiffs to file a Second Amended Complaint without leave of court, naming certain individual(s) as class representative(s), and including the following agreed-upon class definitions that are intended to include all current and former homeowners and residents in the Park after October 22, 2003, who were not class members in the *De Anza Cove* class action case:

***Aglio*-eligible Master Settlement Class ("Aglio Class"):**
"As of October 22, 2003, and thereafter, all homeowners and/or residents—and their heirs—of the approximately 509 homes within the mobilehome park now known as Mission Bay Park and formerly known as De Anza Harbor Resort

("Park"), located at 2727 De Anza Road, San Diego, California, who were *not* class members within the *De Anza Cove* class action (San Diego Superior Court, Case No. GIC 821191)."

Subclass A ("Settlement Agreement Subclass"):
"All homeowners and/or residents within the Aglio Class who signed release agreements with the City of San Diego regarding the Park." This subclass will address the alleged unenforceability of these release agreements in light of state law prohibiting any waiver of rights under the MRL, the false pretenses under which such agreements were obtained, and the heavy-handedness with which these agreements were secured.

Subclass B ("Eviction Subclass"):
"All homeowners and/or residents within the Aglio Class who were evicted from the Park on or before September 4, 2007."

Subclass C ("Current Resident Subclass"):
"All homeowners and/or residents within the Aglio Class who currently reside at the Park (at anytime during the period from January 14, 2015 through July 1, 2016 or the revised Park Closure Date, whichever is later) and are not part of Subclass A or B." This Subclass will address what relocation benefits may or may not be owed to those homeowners and residents who currently reside at the Park, but did not reside in the Park on October 22, 2003, as would be required to be a class member within the *De Anza Cove* class action case.

4. The parties stipulate that the Aglio Class shall include those individuals who opted out of the *De Anza Cove* class action. However, as previously ruled by the Court in the *De Anza Cove* class action, DHRG and DHRG "investor" units are not part of the Aglio Class and are not eligible for compensation under this *Aglio* Action. Likewise, those people who entered into new settlements with the City of San Diego after trial in the *De Anza Cove* class action are not part of the Aglio Class and they are not eligible for compensation under this *Aglio* Action.

5. The Parties stipulate, for purposes of this settlement, that: Plaintiff(s) have standing to act as class representative(s) and has a common interest with the *Aglio*-eligible current and former homeowners and residents of the Park regarding the matters settled herein; the *Aglio*-eligible current and former homeowners and residents of the Park are so numerous that joinder of them would be impracticable; Plaintiff(s) have and will fairly and adequately represent the interests of the *Aglio*-eligible current and former homeowners and residents of the Park; Plaintiff's interests are coincident with, and not antagonistic to, those of the *Aglio*-eligible current and former homeowners and residents of the Park; Plaintiffs have retained counsel who are competent and experienced in the prosecution of complex actions such as this action and that Plaintiff's counsel should be appointed Class Counsel; this action meets the requirements of Code of Civil Procedure section 382 and is superior to any other available method to ensure the fair and efficient adjudication of this controversy because it will permit a large number of similarly-

situated persons to prosecute and resolve their claims efficiently and without duplication of effort and expense that dozens of multiple individual actions would entail.

6. Within 10 days of filing said Second Amended Complaint, the City shall file an Answer without any pleading challenges to the Second Amended Complaint. However, if the settlement is not finalized by the parties and/or not approved by the Court, the parties stipulate and agree that (a) the City's Answer to the Second Amended Complaint shall be withdrawn, (b) the Second Amended Complaint shall be stricken, and (c) the City reserves all arguments, contentions, pleadings challenges and defenses that might affect the adjudication of the First Amended Complaint.

7. The parties agree to thereafter promptly submit this Agreement to the *Aglio* Court along with a "Joint Motion for: (1) Preliminary Approval of Class Action Settlement; (2) Conditional Certification of Settlement Class; (3) Approval of Notice of Class Action and Proposed Settlement" similar in form to that submitted in the *Mission Valley Village* mobilehome park class action settlement, San Diego Superior Court Case No. 37-2010-00090665, for determination by the Court as to its fairness, adequacy, and reasonableness. The Parties agree to cooperate in obtaining preliminary approval and make reasonable and good faith efforts to obtain preliminary approval as soon as the Court's calendar will permit. The Parties shall jointly apply to the Court for an entry of a preliminary approval order that will accomplish the following: (a) Schedule a fairness hearing on the question of whether the proposed settlement, including payment of attorneys' fees and costs, should be finally approved as fair, reasonable, and adequate as to the Class Members; (b) Preliminarily certify the class for purposes of settlement; (c) Approve as to form and content the proposed Notice to the settlement class; (d) Direct the mailing of the Notice and Claim Forms by first class mail to the Class Members, and other agreed-upon methods of publishing (such as on the Notice Administrator's website and posting at the Park); and (e) Preliminarily approve the settlement subject only to any objection(s) of Class members and final review by the Court. The parties agree to meet and confer on the form and content of the documents to be submitted to the Court for approval as outlined in this Paragraph.

8. The parties agree that the Notice Administrator shall be Gilardi & Co., ("Gilardi") and the Relocation Coordinator / Claims Administrator shall be Overland, Pacific & Cutler ("OPC"), as the Court had ordered in the *De Anza Cove* class action case. The City shall pay all costs associated with publishing and serving the class notices through Gilardi and shall pay all costs associated with OPC.

9. Upon entry of the preliminary approval order as outlined in Paragraph 7, the parties agree that the Notices to the settlement class and Claim Forms shall be mailed and published by Gilardi within fourteen (14) days of the Court's preliminary approval order. The Aglio Class shall have not less than thirty (30) days from the postmarked date of mailing of the Notice to opt out of the Class, the deadline for which shall be set forth in the Notice.

10. As a condition precedent to the enforceability of this proposed Aglio class settlement, no more than one current resident household (either the homeowner(s) or

renter(s) in the household) may opt out of the Aglio Class (which has approximately 73 eligible resident households and approximately 138 eligible non-resident/vacated households). However, in order to fully contemplate the potential benefits to the City and the parties hereto if this *Aglio* Action were to continue to final approval despite more than one current resident household opt-out, the City may, in its sole and absolute discretion, choose to waive (in whole or in part), this condition precedent after the time period to opt-out has passed, provided that such waiver must be in writing signed by the City's attorney(s) of record. Notably, if certain households were to elect to opt-out of the *Aglio* class action, they will not be compensated under the provisions of the class settlement thereby reducing the amount of compensation for which the City would have been liable hereunder. Further, anyone who might choose to opt-out will not be protected by *any* of the mechanisms afforded by this Aglio Class settlement: They will not be entitled to the benefits of the settlement, such as extending their residency beyond the existing January 13, 2016 Park Closure Date, and they will not receive the agreed-upon relocation compensation provided by this Aglio Class settlement. Not only will those who might elect to opt-out not gain the benefits of the settlement, they would then be potentially subject to the litany of risks and defenses that the City has raised to date, such as being subject to eviction by Unlawful Detainer procedures starting after the presently set Park Closure Date of January 13, 2016, being potentially time-barred by the statute of limitations and/or Government Claims Act compliance requirements, attempting to overcome the terms and language of the City's release agreements that they signed, and facing the possibility of a prevailing party attorney's fee and cost award against them if the City were to prevail.

11. The parties agree that, upon the date the Court signs one or more orders certifying the Aglio Class and thereafter giving its final approval of this settlement with respect to the Aglio Class (the "Court Approval"), all members of the Aglio Class will also be bound by the terms of this Agreement.

12. Within fourteen (14) days of Court Approval, the City/OPC shall serve an updated Six-Month Notice of Park Closure and Amended Relocation Impact Report ("Amended RIR") on the Aglio Class members still residing at the Park. The City shall be responsible for and pay all costs associated with preparing and serving the Six-Month Notice of Park Closure and Amended RIR.

13. The Aglio Class shall, as soon as possible, submit complete, valid Claim Forms to OPC. The deadline to submit a Claim Form shall be June 1, 2016 ("Claim Submittal Deadline").

14. If necessary, the parties agree to cooperate in good faith to establish deadlines different than those set forth in this Agreement for notice publication and opt outs, claim publication and submittals, service of the updated Six-Month Notice of Park Closure and Amended RIR, and/or payment timeframes.

15. The parties stipulate and agree that the Park shall remain open and operational beyond the January 13, 2016 initially noticed Park Closure Date for all current homeowners and residents of the Park who are Class members of this *Aglio*

Action only, until at least six months after the date that the City has prepared and served an updated Six-Month Notice of Park Closure and an Amended Relocation Impact Report for Aglio Class members that reflects the compensation and benefits that shall be paid to the Aglio Class members (which the parties agree complies with the timing and content requirements of the MRL). Based on the time needed to: (a) secure a final, executed settlement agreement, (b) draft the Second Amended Complaint, Answer, and potential class notice, (c) jointly prepare a preliminary approval motion and file it with the Court, (d) obtain preliminary approval by the Court; (e) allow a period of time in which to accomplish publication of Notice to the Aglio Class and then a 30-day opt-out period, (g) hold a fairness hearing and obtain a final approval order from the Court, (h) prepare and serve an updated Six-Month Notice of Park Closure and Amended RIR for the Aglio Class members still residing at the Park, and (i) process the Claims received from the Aglio Class members—it is understood and agreed that for *all* current Aglio Class members residing at the Park, a revised Park Closure Date cannot and shall not take place any earlier than **July 1, 2016**.

16. The Park Closure Date of January 13, 2016 shall continue to apply for all *De Anza Cove* class members. Only Aglio Class members currently residing in the Park shall be allowed to continue to reside in the Park after January 13, 2016. All Aglio Class members that continue to occupy spaces and/or reside in the Park shall be required to vacate the Park on or before the revised Park Closure Date (which shall not take place until at least July 1, 2016). The Aglio Class members further understand that, in addition to the Six-Month Notice of Park Closure, the City shall issue Sixty-Day Notices to Terminate Possession to each Aglio Class member still living in the Park a minimum of sixty (60) days prior to the revised Park Closure Date pursuant to Civil Code section 798.55(b)(1), and the Aglio Class members agree not to object to or challenge the legal sufficiency of the Six-Month Notices of Park Closure and Sixty-Day Notices to Terminate Possession.

RELOCATION COMPENSATION COMPUTATION & METHODOLOGY

17. Relocation compensation calculated for the Aglio Class shall use essentially the same underlying relocation compensation components and methodology as ordered by the Court in the *De Anza Cove* class action, case number GIC 821191, as the requisite mitigation and compensation required by the applicable provisions of the San Diego Housing Commission Policy, San Diego Municipal Code, and the California Mobilehome Residency Law, while taking into account the differences and risks facing the parties in this *Aglio* Action. For settlement purposes of this *Aglio* Action, the following compensation will apply:

18. Compensation for Aglio Class homeowners, per household, shall be based on the square-footage size of their mobilehome (size subject to confirmation) with the following Court-ordered comparable rent tiers from the *De Anza Cove* class action case: $1,300 for mobilehome sizes 1 to 664.9 square feet; $1,750 for mobilehome sizes 665 to 1059.9 square feet; $2,600 for mobilehome sizes 1060 to 1379.9 square feet; $3,395 for mobilehome sizes 1380 to 1629.9 square feet; and $3,595 for mobilehome sizes 1630

square feet and larger. Comparable rent minus existing space rent shall thereby determine one month of "rent differential." Rent differential shall then be multiplied by 48 to calculate the main component, per household, of relocation benefits for homeowners required by the SDHC Policy and the MRL. The comparable rental rates stated in this Paragraph shall remained fixed and shall not be revised to the comparable market rental rates that may exist on the revised Park Closure Date but, as detailed below in paragraphs 20-21, interest shall accrue at 7% per annum on these relocation benefits in order to more fully compensate the Class. Aglio Class homeowners shall also receive moving expenses of $1,660 per household, adjusted for changes in the Consumer Price Index, San Diego, All Items, All Urban Consumers in accordance with the methodology required by the Court in the *De Anza Cove* class action. Further, any homeowner that elects to sell his/her mobilehome to a third party shall retain any and all proceeds from the sale of the mobilehome.

19. Compensation for non-homeowner Aglio Class renters, per household, shall be in the form of two (2) months of current comparable apartment unit rent (based on the square-footage size of their rented mobilehome (subject to confirmation) as listed in the previous paragraph), plus a personal property moving allowance of $1,660 per household, adjusted for changes in the Consumer Price Index, San Diego, All Items, All Urban Consumers in accordance with the methodology required by the Court in the *De Anza Cove* class action.

20. For those Aglio Class members that have already vacated the Park before January 14, 2015, comparable apartment rents shall be determined as of the date they vacated the Park, with the historical comparable rents calculated by applying the Consumer Price Index, U.S. City Average, All Items, All Urban Consumers to the comparable apartment rents adopted by the Court in the *De Anza Cove* class action, not to exceed the comparable rental rates listed above in paragraph 18. Aglio Class members who had already vacated the Park shall be entitled to 7% interest per annum accruing from the date they vacated the Park until 30 calendar days after Court Approval or payment in full hereunder, whichever comes first; however, notwithstanding the foregoing regarding interest payments, interest shall be calculated and paid on a pro-rata basis to Aglio Class members only after all claims are submitted and accounted for to ensure sufficient relocation compensation funds are available to the Aglio Class. For those Aglio Class members that have already vacated the Park before January 14, 2015, and submitted valid Claim Forms, the City shall make full payment no later than 30 calendar days after the Claims Submittal Deadline.

21. Further, as detailed in the "Stipulation Re: Post-Judgment Interest; Order Thereon" entered by the Court in the *De Anza Cove* class action on or about April 22, 2015, the parties stipulate and agree that the City will likewise pay interest at the rate of 7% per annum to Aglio Class members who had not yet vacated the Park as of January 14, 2015 (i.e., resident Aglio Class homeowners and renters). As noted in the preceding paragraph, however, notwithstanding the foregoing regarding interest payments, interest shall be calculated and paid on a pro-rata basis to Aglio Class members only after all claims are submitted and accounted for to ensure sufficient relocation compensation funds are available to the Aglio Class. For resident Aglio Class

members, said interest will begin to accrue on January 14, 2015—the date the City served its initial Notice of Park Closure and Relocation Impact Report—and will continue to accrue up through and including the date the Aglio Class member is paid in full or the revised Park Closure Date, whichever is earlier.

22. Like the order of the Court in the *De Anza Cove* class action, temporary lodging expenses for Aglio Class homeowners shall be determined based on reasonable and verifiable lodging costs at the time of their relocation, on a case-by case basis and in an amount not to exceed $147 per night up to seven nights, for (a) owners of mobilehomes that can be relocated, and (b) other mobilehome owners upon a showing of reasonable necessity for temporary lodging.

23. Each Aglio Class member shall be entitled to same benefits regarding the services of the relocation consultant/coordinator (OPC), and costs of any reasonable disability or other access modifications for Aglio Class members at their new residences as detailed in the *De Anza Cove* class action Amended Judgment, pages 7:26-8:13:

> Defendant shall offer to each Plaintiff Class Member the services of a relocation consultant/coordinator to (1) explain benefits and issues related to the closure of the Park; (2) identify replacement housing, (3) coordinate moving arrangements, (4) identify disabled-accessible accommodations and coordinate the relocation of any disabled Plaintiff Class Members and/or any necessary disability modifications, as applicable, and (5) other individual relocation assistance that may be required on a case-by-case basis. OPC is appointed the Park relocation consultant and coordinator. Defendant shall bear the sole responsibility for and pay the costs and expenses of OPC and/or other relocation consultant(s) or vendor(s) as deemed necessary at the discretion of OPC.
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> Defendant shall bear the reasonable cost of any reasonable disability or other access modifications for Plaintiff Class Members at their new residences, provided that (a) the modifications are part of the Plaintiff Class Member's mobilehome at the time of entry of this Judgment and (b) the owner of the apartment unit would be required to make such modifications at the request and expense of the resident pursuant to the Fair Housing Act. Defendant has no responsibility to pay for modifications to an apartment unit that are the responsibility of the owner of the apartment unit.

24. After the City serves an updated Six-Month Notice of Park Closure and Amended RIR for the Aglio Class members still residing at the Park, payments shall be issued to Aglio Class Members, on a household-by-household lump sum basis, provided that the Aglio Class Member (a) is a vacated Aglio Class Member as defined in Paragraph 20 and has submitted a valid Claim Form pursuant to Paragraph 13, or (b) on or after City serves an updated Six-Month Notice of Park Closure and Amended RIR on the Aglio Class members still residing at the Park, the Aglio Class Member has (i) provided Defendant or OPC with a minimum of sixty (60) days-notice of his or her intent to vacate the Park, unless otherwise agreed by Defendant, (ii) executed a termination of

tenancy agreement, (iii) vacated the Park, and (iv) submitted a valid Claim Form pursuant to Paragraph 13. "Vacate" or "vacated" means that he/she has paid any and all outstanding rent and utilities, and either (1) physically moved him or herself, any and all occupants, his/her mobilehome, appurtenances and personal property from the Park or (2) physically moved him or herself, any and all occupants, and personal property from the Park, and conveyed free and clear title to his/her mobilehome and appurtenances to Defendant.

25. If an Aglio Class Member elects to sell, physically relocate or otherwise arrange for the removal of his/her mobilehome and appurtenances from the Park, the Aglio Class Member shall solely bear the cost and responsibility of such sales, relocation and/or removal of the mobilehome from the Park. If a vacating Aglio Class Member elects to convey free and clear title to his/her mobilehome to the City, the City shall bear the sole cost and responsibility of removing the mobilehome from the Park. Transfer of title to the City does not constitute a sale or purchase of the mobilehome for value, nor shall the City be required to purchase mobilehomes from Aglio Class Members. Further, any such title transfers to the City are deemed to the complete abandonment of any and all rights, title or interest in the mobilehome, its appurtenances, and any personal property left in the mobilehome.

26. After the City serves an updated Six-Month Notice of Park Closure and Amended RIR for the Aglio Class members still residing at the Park, individual Aglio Class members who still reside at the Park may request that OPC issue them an initial 50% advance payment of relocation benefits before they vacate the Park. Said initial 50% advance payment shall be calculated based on relocation benefit components only (e.g., rent differential, moving expenses, temporary lodging), and shall be made no sooner than June 1, 2016. Once the Aglio Class member thereafter vacates the Park, all remaining relocation benefits will be paid, along with any interest payment owed. If an Aglio Class member fully vacates the Park without first seeking a 50% advance payment, said Aglio Class member will be paid in one lump sum with interest accruing on the entire amount through the date of payment. As indicated in preceding paragraphs, however, interest shall be calculated and paid on a pro-rata basis to Aglio Class members only after all claims are submitted and accounted for to ensure sufficient relocation compensation funds are available to the Aglio Class.

27. The parties agree there can only be one valid homeowner rent differential compensation claim per household between the *De Anza Cove* class action and the *Aglio* Action. For example, at hypothetical space no. X-33, if rent differential relocation benefits were already paid to a homeowner who presented a valid claim in the *De Anza Cove* action for the home located at X-33, no other homeowner could claim homeowner benefits in the *Aglio* case for X-33. Conversely, if no timely claim were made in the *De Anza Cove* action for X-33, a current homeowner of X-33 may make a valid claim for those homeowner benefits in the *Aglio* Action.

28. The parties stipulate and agree that Aglio Class Relocation Compensation Fund (relocation compensation, moving expenses, temporary lodging, and interest) shall not exceed $14.0 million in new money, with said benefits paid on a claims-made basis.

"New money" is defined as the money available to pay relocation compensation, moving expenses, temporary lodging, and interest, without regard to any deductions to individual benefits to account for prior settlement payments. (See Paragraph 31.) As noted above, interest shall be calculated and paid on a pro-rata basis to Aglio Class members only after all claims are submitted and accounted for to determine whether sufficient relocation compensation funds are available to the Aglio Class. As such, it is possible that Aglio Class members might receive a pro-rata share of relocation compensation or interest that is less than 7% accrued interest if insufficient relocation compensation funds remain after all relocation claims are submitted and accounted for. Sixty (60) days after the completion of the claims processing ordered by the Court and final accounting provided by the Court-appointed Claims Administrator and Relocation Coordinator and approved by Plaintiffs' counsel, the City may make a request to the Court to order that any remaining balance of the Aglio Class Relocation Compensation Fund shall be retained by and revert to the City.

29. If special circumstances apply to particular Aglio Class members, or certain Aglio Class members assert benefits greater than those that the Claims Administrator agrees should be paid or that the parties agree upon, then, after a good-faith effort to resolve the dispute, the parties agree that Special Master/Referee Thomas Sharkey, Esq. shall be appointed to act as the final arbiter of the dispute. Mr. Sharkey has served as the Court-appointed Special Master/Referee in the *De Anza Cove* class action. If Mr. Sharkey is not available, the parties agree to cooperate to agree upon a suitable substitute Special Master/Referee. The City agrees to pay the cost and expense of the Special Master/Referee. The parties further agree that, with respect to any award of benefits greater than those that the Claims Administrator agrees should be paid or that the parties agree upon, such awards of greater benefits shall be paid exclusively out of the Aglio Class Relocation Compensation Fund, and under no circumstances shall the City be required to pay any amount of relocation compensation, moving expenses, temporary lodging, and interest in excess of the total amount of $14.0 million.

30. If the City of San Diego had previously made a verified payment to an Aglio Class member (such as a settlement agreement payment of between $4,000 and $8,000 that was received and cashed by the Aglio Class member), the City shall be entitled to deduct the original settlement payment from the final amount of relocation payment due hereunder to the Aglio Class member. For example, if an Aglio Class member's total relocation benefits and accrued interest were to total $50,000 as of the date their final payment hereunder is calculated and ready to deliver to the class member on July 1, 2016, then the $4,000 previously paid (regardless of the date of the City's actual payment) would be deducted and applied as an offset on July 1, 2016 from the final $50,000, leaving $46,000 of new money due and owing to the Aglio Class member. As part of the Claims process, Aglio Class members agree to disclose and/or make their best efforts to provide information or documents related to the receipt and cashing of any such payments by the City.

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ADDITIONAL PROVISIONS

31. **Attorneys' Fees, Costs and Expenses.** It is agreed and understood that the Aglio Class shall not bear the responsibility to pay any attorneys' fees or costs through this settlement. None of the attorneys' fees or costs shall come from the common fund or from any part of the relocation compensation owed to the Aglio Class. Rather, the City agrees, and the Court shall order, that the City shall pay Plaintiff counsel's reasonable attorneys' fees and costs *in addition to* the relocation compensation that the City owes hereunder to the Aglio Class. Although Plaintiffs' counsel's retainer agreements in this *Aglio* case call for a contingency fee of 40%, Plaintiffs' Class Counsel agrees to, and the City stipulates that the Court shall order the City to pay Plaintiffs' Class Counsel's reasonable attorneys' fees at 33⅓% of the $14 million in potential claim payments, which is $4,666,667, under the same general terms as the Court ordered in the *De Anza Cove* class action case via the "Parties' Stipulation to Award Prevailing Party Attorneys' Fees; Order Thereon" entered by the *De Anza Cove* Court on or about November 14, 2014, including the agreement to make payments as directed by Plaintiffs' Counsel (such as by lump-sum payment and/or periodic payments via a one-time instruction to make payment to an annuity, qualified settlement fund, fee structuring, or other structured-payment-type financial institution). By February 15, 2016, Plaintiffs' Class Counsel will provide the City with directions for the payment of attorneys' fees in order to facilitate those payments by the City. The City further stipulates that the Court shall order the City to pay Plaintiffs' Class Counsel's current and future expected costs in the *Aglio* case of $140,000, which is comprised of, among other things, expert consultant and expert witness fees, filing fees, court reporter fees, private investigation services, multi-media consultants, and other costs, expenses, and consultants' fees. Such costs aid in the resolution of this matter and in the administration of the claims process. Payments of attorneys' fees and costs shall be due and owing to Plaintiffs' Class Counsel and shall be made no later than 30 calendar days after the Court's entry of final approval, with no reduction to said fees or costs if any households elect to opt out or fail to make a claim (exactly as was the case in the *De Anza Cove* class action and the *MVV* class action). Plaintiffs' counsel shall agree that no interest shall accrue on these fee and cost amounts unless not paid in full on or before the 30th calendar day after entry of final approval, and thereafter shall accrue at 7% interest per annum on any unpaid amounts. The parties agree not to object, contest, or appeal this fee and cost approval by the Court. Defendant City of San Diego and any of its agents shall bear their own attorneys' fees, costs and expenses.

32. It is expressly agreed and understood that this settlement is conditioned on: (a) execution of this Agreement by the parties hereto, (b) the Court's preliminary approval, and (c) the Court's final approval.

33. For and in consideration of the foregoing benefits, compensation, and payment(s), and for and in consideration of other good and valuable consideration, the receipt and adequacy hereof are hereby acknowledged, the parties do hereby for themselves (and their respective past, present, and future conservators, trusts, trustees, trustors, estates, receivers, administrators, predecessors, parent and subsidiary and affiliate organizations and insurers, representatives, successors, partners, joint venturers,

members, managers, investors, owners, principals, shareholders, officers, directors, employers, employees, agents, servants, assigns, insurers and all other persons, firms, companies, entities, corporations, associations, partnerships and organizations), fully and forever release, acquit and discharge each other of and from any and all claims, suits, actions, causes of action, demands, liabilities, duties, obligations, rights, damages, benefits, costs, awards, loss of service, expenses and compensation whatsoever, of every sort and nature whether arising in law, equity or otherwise, known and/or unknown, which the parties now have or may have on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen, past or present duties, obligations, economic loss or claims or awards and the consequences thereof in the *Aglio et al. v. City of San Diego*, San Diego Superior Court, Case No. 37-2009-00081994-CU-EI-CTL, whether arising from or based upon tort, contract or otherwise, arising or resulting from or by reason of the conduct and/or obligations of said parties (or any of them) taking place and/or existing at any time prior hereto, including but not limited to any and all injuries or damages or claims arising or resulting from or by reason of the incidents, events and/or matters in the *Aglio* Action at any time through July 1, 2016. It is further understood and agreed that the parties referred to herein with respect to the matters settled and released as provided herein expressly waive all rights under California Civil Code section 1542 and any similar law of the United States or of any state or territory of the United States. Said section reads as follows:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

34. The parties acknowledge and agree that the foregoing waiver was separately bargained for and is a key element of this Agreement, of which the releases contained herein are a part. The parties acknowledge and are aware that they may hereafter discover facts different from or in addition to the facts which they or their attorneys now know or believe to be true with respect to the subject matter of this Agreement, but it is their intention to fully and finally release and settle all manner of liabilities and claims as described in this Agreement which exist or may exist. It is understood by the parties that claims may exist in their favor against some person or organization released as provided in this Agreement which are not presently known, suspected or understood by said party, and which, if known, suspected or understood by said party would have materially affected the existence, form or extent of the releases provided for in this Agreement; said party assumes the risk of the discovery of such claims subsequent to the execution of this Agreement. Each party agrees that the releases set forth in this Agreement shall be in all respects effective and not subject to termination, rescission, alteration or reformation as a result of or in connection with any such subsequently discovered facts or claims. In the event that any waiver of the provisions of section 1542 of the California Civil Code or any similar law of the United States or of any state or territory of the United States provided in this Agreement should be judicially determined to be invalid, void or unenforceable for any reason, such waiver to that extent shall be severable from the remaining provisions of this Agreement, and the invalidity,

voidability, or unenforceability of the waiver shall not affect the validity, effect, enforceability or interpretation of the remaining provisions of this Agreement.

35. The Aglio Class understands that the payments, concessions, obligations, and relocation benefits provided under the terms of this Agreement are not necessarily the same and/or may be different or greater than the relocation benefits provided under the initial RIR prepared in January 2015, and with this knowledge each Aglio Class member accepts the payments and benefits provided under the terms of this Agreement as the complete satisfaction of any relocation benefits, compensation, payment and/or mitigation measures and of any right to relocation benefits or other compensation or rights which the Aglio Class member may have or may have had pursuant to the Mobilehome Residency Law, the Government Code, the San Diego Housing Commission Policy, the San Diego Municipal Code, the Long Term Rental Agreement, or any other applicable law or requirement by reason of the closure of the Park.

36. The parties recognize that some Aglio Class members presently live in the Park and will continue to reside in the Park after the execution of this Agreement. Nothing in this Agreement is intended to affect the parties' and each Aglio Class member's existing rental and other obligations under his or her rental agreement or the City's right to collect rents and utilities that are or may be in the future due and owing, or otherwise impair the parties' rights to enforce rental agreements, the provisions of the Mobilehome Residency Law, and Park's rules and regulations. The parties to this Agreement further agree that nothing in this Agreement is intended to affect the City's existing obligations to operate and maintain the Park and all common areas until the revised Park Closure Date. Further, the Aglio Class stipulates and agrees that the Permanent Injunction issued on October 16, 2014 shall be lifted in its entirety on the date of the revised Park Closure Date.

37. The Aglio Class members stipulate and agree that any and all Aglio Class members that fail to fully vacate the Park on or before the revised Park Closure Date is subject to legal action for ejectment or eviction, that the Honorable Joel M. Pressman shall have jurisdiction to hear such matters pursuant to Code of Civil Procedure section 664.6, and that the City shall be permitted to apply to the Court on an *ex-parte* basis for a determination that the Aglio Class member(s) has breached the terms of the Agreement and/or for the issuance of a writ of possession. The parties stipulate and agree that, absent a finding that the City has violated the terms of the Agreement, the Court shall award possession of the space in the Park owned and/or occupied by the Aglio Class member to the City and immediately issue a writ of possession.

38. The Aglio Class and their counsel agree to obtain court approval of the settlement provided for herein (or to work with separate counsel as appropriate) as to any Aglio Class member who is subject to any guardianship, conservatorship or other similar proceeding or legal form which requires judicial approval of a settlement and/or this Agreement.

39. **This Agreement is Enforceable and Binding.** This Agreement shall be enforceable and binding within the meaning of California Evidence Code section 1123(b)

and Code of Civil Procedure section 664.6. The Court shall retain jurisdiction of the *Aglio* Action referred to herein for purposes of enforcing this Agreement and the settlement described herein.

40. **Full and Final Settlement; No Admission of Liability.** It is understood and agreed that this Agreement, and the settlement and releases referred to herein, are the full and final compromise and settlement of disputed claims and contested issues, and that any agreement or payment made is not to be construed as any admission concerning said claims or issues, or as any admission of liability on the part of any of the parties referred to herein (including but not limited to any releasee, any releasor or any party hereto). The parties hereto, and any releasee or releasor, expressly deny any liability to the other parties, or to any other releasee or releasor, and intend merely to avoid further litigation and buy their peace. This Agreement, and the settlement and releases referred to herein, are the result of a compromise and shall never at any time for any purpose be considered an admission of any facts, issues, liability or responsibility whatsoever on the part of any of the parties referred to herein (including but not limited to any releasee, any releasor or any party hereto). Nothing herein, and nothing taking place at any time prior hereto, including but not limited to any actions, omissions to act or any other conduct by or on behalf of any of the parties referred to herein (including but not limited to any releasee, any releasor or any party hereto), shall be deemed or construed to be any admission or concession of any facts, issues, liability or fault in respect to any of the issues raised or which could or potentially could have been raised by any of the parties referred to herein (including but not limited to any releasee, any releasor or any party hereto), or in respect to any of the allegations made or which could or potentially could have been made by or against any of the parties referred to herein (including but not limited to any releasee, any releasor or any party hereto). This Agreement, and the settlement and releases referred to herein, shall not be admissible as evidence against any party referred to herein (including but not limited to any releasee, any releasor or any party hereto) for any purpose other than in a lawsuit or other proceeding to enforce the provisions hereof. This Agreement, and the settlement and releases contained herein, shall be binding upon and shall inure to the benefit of and be enforceable by the parties hereto and the Aglio Class, and any releasee and the respective past, present and future heirs, spouses, executors, guardians, conservators, trusts, trustees, trustors, beneficiaries, legatees, devisees, estates, receivers, administrators, predecessors, parent and subsidiary and affiliate organizations, representatives, successors, partners, joint venturers, members, managers, investors, owners, principals, shareholders, officers, directors, employers, employees, agents, servants, assigns, attorneys and insurers of the respective parties and/or of any releasee. This Agreement, and the settlement and releases referred to herein, are a result of a full and final settlement of any and all liabilities and/or disputes as described herein.

41. **Incorporation of Documents; No Representation Unless Expressed.** The parties agree that the RIR is incorporated into this Agreement as though fully set forth herein. To the extent that conflicting language exists between the incorporated documents and this Agreement, the parties agree that the terms of this Agreement shall govern. The parties further declare and represent that no promise, inducement or agreement not herein expressed has been made to them by or on behalf of the others, and

that this Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and that the terms of this Agreement are contractual and not mere recitals.

42. **Voluntary Settlement**. In making this Agreement, and the settlement and releases referred to herein, it is understood and agreed that each of the parties relies wholly upon said party's own judgment, belief and knowledge of the nature, extent, effect and duration of any injuries or damages and liability therefor, and this Agreement, and the settlement and releases referred to herein, are made voluntarily and without reliance upon any statement or representation of, by or on behalf of any of the parties unless expressed herein.

43. **Severability.** The invalidity or unenforceability of any of the provisions contained in this Agreement shall not render invalid or unenforceable any of the other provisions of this Agreement. If any provision of this Agreement or the application thereof to any person, organization or circumstance shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement or the application thereof to any person, organization or circumstance shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

44. **No Assignment of Claims and/or Transfers of Rights to Relocation Benefits.** The parties represent and warrant that they have not assigned or transferred in any manner, including by way of subrogation or operation of law or otherwise, any claims, suits, actions, causes of action, demands, liabilities, duties, obligations, rights, damages, benefits, costs, awards, loss of service, expenses and/or compensation released by such party herein and shall not transfer their rights to relocations benefits under this Agreement to any person or entity.

45. **No Action.** Each party hereto hereby covenants and agrees not to bring any claim, action, suit, or proceeding against any other party hereto, directly or indirectly relating in any way to the matters settled and released hereby, and each party further covenants and agrees that this Agreement is a bar to any such claim, action, suit or proceeding.

46. **Other Acts.** The parties hereby agree to do such things and to execute such other and further documents, writings and/or instruments as may be necessary or convenient to the performance of this Agreement and/or to assure that its intent, purposes, and/or objects shall be fully and completely carried out.

47. **Choice of Law and Jurisdiction.** This Agreement and the rights, obligations, remedies and defenses arising therefrom shall be governed by and interpreted and construed in accordance with the laws of the State of California and jurisdiction shall be in the Superior Court in and for San Diego County, California.

48. **Representation by Counsel and Arms Length Transaction.** The Aglio plaintiffs, Aglio Class, and the City of San Diego have been represented by independent

counsel of their own choice, or have had an opportunity to consult with counsel and have voluntarily elected not to do so, and the settlement and releases referred to herein are deemed to be an arm's length transaction.

49. **Interpretation.** This Agreement shall be interpreted and construed as if the parties jointly prepared it, and any uncertainty or ambiguity shall not be interpreted or construed as against any party as if that party alone was the drafter. Any ambiguity or uncertainty shall be interpreted and construed in light of the intention of the parties to fully settle and compromise finally, any and all liabilities and/or disputes, known or unknown, by the Aglio plaintiffs and the Aglio Class against the City as described herein.

50. **Definitions.** The terms "party", "parties", "releasor" and/or "releasee" as used herein shall be understood, interpreted and construed broadly and are not intended nor shall they be understood, interpreted or construed to be limited to the person(s) or organization(s) or other party(ies) executing this Agreement. Wherever the context so requires, the singular shall include the plural, and the plural shall include the singular.

51. **No Oral Waiver or Modification.** No waiver or modification of any of the provisions of this Agreement or of any breach thereof shall constitute a waiver or modification of any other provision or breach, whether or not similar; nor shall any such waiver or modification constitute a continuing waiver. No waiver or modification shall be binding unless executed in writing by the party making the waiver or against whom the modification is asserted.

52. **Captions.** The captions by which the paragraphs of this agreement are identified are for convenience only and shall have no effect whatsoever on its interpretation.

53. **Counterparts.** The parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all parties, but all of which together shall constitute one agreement, and each counterpart shall be deemed an original instrument as against any party who signed it.

54. **Facsimile or Email Signatures.** Signatures may be transmitted by facsimile or email transmission. Transmission of an original signature or a copy thereof on this document, or on any counterpart of this document, by any party or counsel for said party, who has signed this document or a counterpart of this document, to any other party or counsel for any other party, by facsimile or email represents that said document or counterpart has been duly signed and executed. A signature produced by facsimile or email transmission shall be deemed an original signature.

55. **Warranty of Authority of Signatories.** The individuals executing this document warrant and represent that they have the authority to enter into this Agreement on behalf of the individual(s), organization(s) and/or party(ies) for whom they have signed, and that all necessary actions have been taken so that upon execution of this Agreement by the person(s) executing on behalf of such individual(s), organization(s)

and/or party(ies), this Agreement shall be a valid and binding obligation of such individual(s), organization(s) and/or party(ies), enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized and empowered officers or representatives effective as of October 22, 2015.

Aglio Class Representative

By: _____
James Giaciolli

Defendant City of San Diego

By: _____
Scott Chadwick, COO
Its Authorized Representative

APPROVED AS TO FORM:

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